United Nations E CN.15 1999 10

Economic and Social Council

Distr.: General
8 April 1999

English
Original: French

Commission on Crime Prevention and Criminal Justice
Eighth session
Vienna, 27 April-6 May 1999
Item 4 (c) of the provisional agenda*
Strategies for crime prevention: development of crime prevention standards

Report of the Expert Group Meeting on Corruption and its Financial Channels, held in Paris from 30 March to 1 April 1999

Contents

		Paragraphs	Page
I.	Conclusions and recommendations	1-14	2
A.	General considerations	2	2
B.	Measures to improve international cooperation in combating corruption	3-5	2
C.	Measures at the national level to strengthen international cooperation	6-8	3
D.	Measures to improve the detection of financial flows related to corruption	9-12	3
E.	Recommendations	13-14	4
II.	Introduction	15-17	5
III.	Organization of the Meeting	18-24	5
A.	Opening of the Meeting	18-19	5
B.	Attendance	20	5
C.	Documentation	21	5
D.	Election of officers	22	5
E.	Adoption of the agenda	23	6
F.	Closure of the Meeting	24	6
Annexes			
I.	List of participants		7
II.	List of documents		10

* E/CN.15/1999/1.

I. Conclusions and recommendations

1. The Expert Group Meeting on Corruption and its Financial Channels, held in Paris from 30 March to 1 April 1999, would like to bring the conclusions and recommendations set forth below to the attention of the Commission on Crime Prevention and Criminal Justice at its eighth session, for examination and action.

A. General considerations

2. The experts first of all stressed that the fight against corruption had to be undertaken not only through preventive measures, but also through comprehensive efforts to promote good governance, with the involvement of civil society. They noted that there had been extensive action on the part of the international community in recent years to improve international cooperation in controlling corruption. Considerable progress had been achieved in tackling both supply (combating bribe-giving) and demand (combating bribe-taking). However, much remained to be done in three areas, as follows:

(a) The international community should also focus its efforts on the financial channels of corruption and develop a strategy to ensure the detection of related financial flows throughout the world, in order to make possible and strengthen the prevention and punishment of corruption;

(b) There was a need to develop a comprehensive strategy to strengthen the prevention and punishment of corruption, including its links with organized crime and money-laundering. To that end, the United Nations should formulate a global programme of cooperation that would make it possible to improve coordination between measures taken in developed countries, developing countries and countries with economies in transition and to strengthen the capacities of developing countries and countries with economies in transition;

(c) International cooperation in the fight against corruption needed to be significantly improved, for example through the development of standards, as recommended at the Expert Group Meeting on Corruption, held in Buenos Aires from 17 to 21 March 1997. The group of countries fully committed to such cooperation was still too small. It was important to take steps to involve more countries and reduce the number of weak links in the international machinery for detecting and suppressing the international financial flows related to corruption.

B. Measures to improve international cooperation in combating corruption

3. The experts were of the opinion that the international community needed to equip itself with effective international tools to control corruption as a whole and to curb its detrimental effects on economic and financial systems. In their view, States Members of the United Nations should examine the desirability of elaborating a universal instrument on the subject. In that connection, they considered it necessary to take into account international best practices, such as those compiled by the Financial Action Task Force on Money-laundering, the Basel Committee on Banking Supervision, the International Organization of Securities Commissions and Transparency International, as well as the international legal instruments elaborated by other international institutions such as the Council of Europe, the European Union, the Organisation for Economic Cooperation and Development (OECD) and the Organization of American States (OAS), and also the negotiations currently taking place within the United Nations on the drafting of an international convention against transnational organized crime.

4. They expressed the view that, within the context of such a comprehensive strategy, special attention should be paid to technical cooperation and assistance for the developing countries or the regional organizations concerned, through the implementation of the Global Programme against Corruption developed by the Office for Drug Control and Crime Prevention of the United Nations Secretariat. That Programme, which was aimed at aligning national laws and practices, was intended to assist countries so requesting in improving their operational capabilities for controlling corruption and in strengthening the independence of their justice systems, a key factor in that regard. Also, the establishment, under the Programme, of monitoring mechanisms involving international experts was strongly recommended. The experts called upon developed countries to participate actively in the Programme and provide it with the financial resources necessary for its implementation.

5. The experts stressed that the restrictive practices of some States or territories in regard to administrative cooperation or mutual legal assistance tended to increase

the vulnerability of their institutions and financial systems to the laundering of unlawful proceeds of corruption.

C. Measures at the national level to strengthen international cooperation

6. The experts were of the opinion that the capacity of a State or territory to cooperate more effectively at the international level in combating corruption called for the following actions at the domestic level:

(a) Ratification, at the earliest possible opportunity, of the existing anti-corruption instruments, including the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and adoption of all necessary steps for their implementation;

(b) Enactment of appropriate legislation to combat the different forms of corruption and the laundering of the proceeds of corruption, laying down the basis for their confiscation and providing for the liability of corporate entities and suitable penalties;

(c) Building specialized structures for dealing with economic and financial crime linked to corruption, the organization of which should be based on a multidisciplinary approach, such an approach being required by the complexity of the fight against corruption;

(d) Appropriate regulation and supervision of financial activities, based on internationally accepted principles;

(e) Introducing comprehensive systems for the prevention and detection of money-laundering, including, in particular, an obligation on the part of financial institutions to identify their customers, exercise vigilance and report suspicious transactions to a competent authority responsible for their investigation;

(f) Establishment of rules of commercial law ensuring that information on finance-oriented corporate structures and their activities is accessible to the administrative and judicial authorities.

7. The experts also considered that the increased participation of all States in international cooperation would facilitate the prosecution of bribe-givers and bribe-takers worldwide. In the case of countries whose participation in such cooperation efforts was currently insufficient, it would also have a direct impact on the level of protection of their economic and financial systems from unlawful proceeds in general and from the proceeds of corruption in particular. The experts were of the opinion that combating corruption and money-laundering was in fact an essential prerequisite for sustainable economic development.

8. The experts accordingly felt that the control of corruption called for increased efficacy of the modalities of international administrative and judicial cooperation, primarily with a view to identifying the financial channels of corruption, and for the participation of all States or territories, in particular major financial centres linked to the international financial system, including offshore financial centres.

D. Measures to improve the detection of financial flows related to corruption

9. The experts noted that bribe-givers and bribe-takers, who were bound by the confidentiality of a covert arrangement, sought to dissociate the origin of the proceeds from their destination and then to launder such assets in order to protect themselves against inquiry and prosecution. The financial channels of corruption thus followed routes that afforded maximum protection from investigation.

10. The experts also noted that financial flows stemming from corrupt deals passed through States and territories that did not possess comprehensive and effective systems for detecting such unlawful flows and whose financial sectors were in general inadequately regulated and supervised.

11. Some offshore financial centres posed particular problems in that respect. Financial activities in such States or territories were often insufficiently regulated, even though the volume of financial flows through them was considerable. Moreover, some rules of commercial law did not guarantee the judicial authorities access to information. Shell companies and many other complex corporate structures made it possible to conceal the identity of the true economic beneficiaries of transactions. The experts noted that, among those devices, trusts represented by regulated professions were frequently used for such purposes.

12. Following proposals made by several experts, it was agreed that the international community should provide insufficiently regulated financial centres with model laws that would allow the judicial authorities to have access to

information concerning the origin of assets connected with corrupt practices if there was a suspicion of corruption surrounding such money.

E. Recommendations

13. The government experts recommended the following action at the international level:

(a) Civil society and international organizations should draw the attention of political leaders to the problems of corruption and secure their commitment to dealing with them;

(b) A global programme of technical cooperation against corruption that takes account of best practices should be implemented with the financial support of the most developed countries;

(c) The results of the Expert Group Meeting should be incorporated into the United Nations manual on practical measures against corruption currently undergoing revision, in order to provide an instrument of technical cooperation that can serve as a guide for all Member States, in particular developing countries and countries with economies in transition, in their efforts against corruption and its financial channels;

(d) Ways and means should be explored with a view to persuading all insufficiently regulated financial centres to adopt rules enabling them to trace and take action against the proceeds of corruption, participate actively in international cooperation efforts against related financial crime and, if necessary, consider the introduction of measures to protect the global financial system from financial centres that pose the most significant problems or that do not participate in international cooperation;

(e) Member States should be invited to consider the desirability of elaborating a universal international anti-corruption instrument taking into account the recommendations of the Expert Group Meeting, the international legal instruments of other international organizations and the negotiations currently in progress within the United Nations on the drafting of an international convention against transnational organized crime.

14. The experts also recommended the following action at the national level:

(a) Corruption in all its forms should be criminalized and bribe-givers and the proceeds of corruption should be covered under anti-money-laundering laws;

(b) An effective system of national coordination should be established between the administrative, law enforcement and judicial authorities, in accordance with domestic law;

(c) Standard rules should be drawn up concerning transparency and civil and/or criminal liability in respect of private enterprises;

(d) The unrestricted circulation of information and the full involvement of civil society, including the media, in the fight against corruption should be promoted in laws and programmes;

(e) Steps should be taken to ensure that the administrative and judicial authorities of all States and territories forming part of the global financial system have the capacity to cooperate effectively at the international level in preventing, detecting and suppressing acts of corruption and related financial flows, with emphasis on the crucial importance of effective measures for the exchange of information;

(f) Steps should be taken to ensure that bank secrecy and tax provisions do not hamper international administrative and judicial cooperation in combating corruption;

(g) Steps should be taken to ensure that the authorities possess sufficient capacities to provide prompt judicial cooperation in cases involving corruption or the laundering of the proceeds of corruption;

(h) The capacity of States to prevent their financial systems from being used by bribe-givers and bribe-takers to transfer or launder money related to corrupt deals should be strengthened through the establishment of systems for the appropriate regulation and supervision of financial activities, based on internationally accepted principles;

(i) Integrity testing in respect of the founders, shareholders and managers of financial institutions should be guaranteed;

(j) Comprehensive systems for the prevention of money-laundering and the detection of illicit financial flows should be used in combating corruption, including, in particular, the requirement that financial institutions should identify their customers, exercise vigilance and report suspicious transactions to a competent authority responsible for their investigation, based on the recom-

mendations of the Financial Action Task Force and on the Model Regulations concerning Laundering Offences connected to Illicit Drug Trafficking and Related Offences, drawn up by the Inter-American Drug Abuse Control Commission of OAS;

(k) Shell companies and all corporate structures should be prevented from concealing from the judicial authorities the identity of the true beneficial owners and the identity of the actual beneficiaries of financial transactions;

(l) Efforts should be made to align the laws and practices relating to internal and external audits of commercial enterprises and financial institutions, and auditors should be required to carry out appropriate investigations when potentially unlawful acts are brought to their notice;

(m) The extent of professional secrecy of regulated professions should be clearly determined according to the different activities pursued;

(n) Increased vigilance should be exercised with a view to the detection of financial flows involving dealings of operators having no economic activities in the national territory.

II. Introduction

15. The Economic and Social Council, in its resolution 1998/16, which was adopted on the recommendation of the Commission on Crime Prevention and Criminal Justice at its seventh session, decided to convene an open-ended meeting of governmental experts in order to explore ways of ensuring that the recent multilateral initiatives against corruption were effective and that an appropriate international strategy against corruption, including the proceeds thereof, was formulated in consultation with other intergovernmental organizations active in that area.

16. That recommendation followed a series of resolutions and recommendations of the General Assembly, the Council and the Commission. Council resolution 1995/14, which was adopted on the recommendation of the Commission at its fourth session, urged Member States to develop and implement anti-corruption measures, increase their prevention, detection, investigation and prosecution capacities, and improve international cooperation for the prevention and control of corruption. At its fifth session, the Commission recommended that the Council approve a draft resolution entitled "Action against corruption" with a view to its adoption by the General Assembly. The draft resolution was adopted by the Assembly as resolution 51/59. In that resolution, the Assembly adopted the International Code of Conduct for Public Officials and recommended it to Member States as a tool to guide their efforts against corruption. Moreover, in its resolution 51/191, the Assembly adopted the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, and requested the Commission to examine ways, including through legally binding international instruments, to further the effective implementation of the Declaration.

17. The Expert Group met at the invitation of the Government of France, which offered to cover all expenses connected with the Expert Group Meeting in order to assist the Commission in implementing Council resolution 1998/16.

III. Organization of the Meeting

A. Opening of the Meeting

18. The Expert Group met at the invitation of the Government of France, and specifically of the Minister of Finance. The secretariat for the Meeting was provided by the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat.

19. At the opening meeting, statements were made by Dominique Strauss-Khan, French Minister of Economic Affairs, Finance and Industry, and by Jan van Dijk, representative of the Centre for International Crime Prevention.

B. Attendance

20. A list of participants is contained in annex I.

C. Documentation

21. A list of the documents distributed to the experts is given in annex II.

D. Election of officers

22. Thierry Francq, head of the French delegation to the Financial Action Task Force, was elected Chairman of the Meeting. Eugenio Curia (Argentina), Sergei Karev

(Russian Federation) and Zheng Yekui (China) were elected Vice-Chairmen. Iskandar Ghattas (Egypt) was elected Rapporteur.

E. Adoption of the agenda

23. The following agenda was adopted:

1. Opening of the Meeting.
2. Adoption of the agenda and organization of the work in six meetings.
3. Title of the event: "Corruption and its international financial channels: elements of a comprehensive anti-corruption strategy".
4. First meeting: "Review and examination of the latest international developments".
5. Second meeting: "Offshore financial centres and the financial channels of corruption".
6. Third meeting: "Corruption, commercial law and practice".
7. Fourth meeting: "International administrative and judicial cooperation in combating corruption".
8. Fifth meeting: "International action, new approaches and action proposals".
9. Sixth meeting: "Conclusions of the Expert Group and adoption of the report of the Meeting".
10. Closure of the Meeting.

F. Closure of the Meeting

24. Closing statements were made by the Directeur de cabinet of the French Minister of Justice and by the representative of the Centre for International Crime Prevention.

Annex I

List of participants

Experts from States members of the Commission on Crime Prevention and Criminal Justice*

Argentina:	Eugenio Maria Curia
Austria:	Johann Haller, Johannes Gschwendp, Enno Drofenik, Norbert Schuh
Benin:	Esteve Rustico, Christiane Bouraima Meylias, Fortune Luc Olivier Guezo
Bolivia:	Ramiro Rivas
Brazil:	Sandra Valle, Damasio de Jesus, Anuar Nahes, Adrienne Senna
China:	Zheng Yekui, Wang Changyong
Colombia:	Olga Bula
Côte d'Ivoire:	Joseph Tanny, Ernest Attoh Nangui, Fako Kone
Ecuador:	Mariana Yepez de Velasco
Egypt:	Iskandar Ghattas, Ayman Abbas
Fiji:	Isikely Mataitoga
France:	Thierry Francq, Alain Damais, Joël Sollier, Eric Danon, Catherine Pignon, Jean-Pierre Michau, Violaine Viennet-Clerc, Xavier Musca, Thierry Ramonatxo, Pierre Merand, Michel Gauthier, Michel Debacq, Jean-Baptiste Avel, Daniel Fontanaud, Thierry Le Roy, Mireille Balletrazzi, Didier Duval, Norbert Carrasco-Saulnier, Philippe Cavalerie, Laurent Paillard, Tristan Gervais de Lafond, Jean-Bernard Peyrou, Dominique Alfonsi, Dominique Guiraud, Jean-Louis Verisson
Germany:	Werner Kerkloh, Frauke Menke, Regina Weinacht, Hans Georg Schlief, Helga Gayer
Iran (Islamic Republic of):	Amir Zamani-Nia
Italy:	Lorenzo Salazar, Stefano Mogini, Castore Palmerini, Pasquale Velardi, Gabriella Lamantia, Ludovica Soderini
Japan:	Masayoshi Kimura, Yasushi Iijima, Nobuhiro Watanabe
Malawi:	Alexius Ernest Nampota, Frayer Nkhoma
Mexico:	Jose-Luis Bernal
Netherlands:	P. J. H. M. Brouns, T. B. Timmermans

* Costa Rica did not send an expert.

Pakistan:	Asma Anisa
Philippines:	Aniano A. Desierto
Poland:	Mariusz Skowronski, Jacek Socha
Republic of Korea:	Nam Sang-jung, Oh Hyun-joo, Kim Jong-bum
Romania:	Lucica Ghita, Gheorghe Geambasu, Nicolae Grigoreanu, Dan Popescu
Russian Federation:	Sergei Karev
Saudi Arabia:	Fadel bin Mohamed bin Hussein Katabi, Abdul Rahman bin Mohamed Al Jarrallah, Talal bin Abdel Kader Bin Abdallah, Mohamed Ibrahim Al Hayzan, Mohamed Al Cheaibi
Sudan:	Saif El Din Omer Suliman, Abubakr Nur
Sweden:	Håkan Öberg, Thomas Grahn, Claes Ljungh
Togo:	Komna Baba, Yao Hétsu Fiaty
Tunisia:	Ben Cheikh Hedi Fitouri, Shili Jalel, Ben Mansour Amor
Ukraine:	Anatolii Bernatskyi
United States of America:	Joseph M. Myers, Theodore S. Greenberg, Joseph Gangloff, Robert Gianfranceschi
Zambia:	Bradford Umbanga Malumbe

States Members of the United Nations represented by observers

Canada, United Kingdom of Great Britain and Northern Ireland

United Nations

Office for Drug Control and Crime Prevention, United Nations Development Programme, United Nations Interregional Crime and Justice Research Institute

Specialized agencies and related organizations

International Monetary Fund, World Bank

Intergovernmental organizations represented by observers

Commonwealth Secretariat, Council of Europe, Council of Ministers of the European Union, European Commission, Financial Action, Task Force on Money Laundering, International Criminal Police Organization, International Organization of Securities Commissions, Organisation for Economic Cooperation and Development

Non-governmental organizations

General consultative status: International Chamber of Commerce

Other non-governmental organizations

Transparency International

Annex II

List of documents

I. United Nations

1. "Practical measures against corruption", *International Review of Criminal Policy*, Nos. 41 and 42.
2. International Code of Conduct for Public Officials (General Assembly resolution 51/59, annex, of 12 December 1996).
3. United Nations Declaration against Corruption and Bribery in International Commercial Transactions (General Assembly resolution 51/191, annex, of 16 December 1996).
4. United Nations Declaration on Crime Prevention and Public Security (General Assembly resolution 51/60, annex, of 28 January 1997).
5. Report of the Expert Group Meeting on Corruption, held at Buenos Aires from 17 to 21 March 1997 (E/CN.15/1997/3/Add.1, annex).
6. Report of the Secretary-General on action against corruption and bribery (E/CN.15/1998/3).
7. Extract from Economic and Social Council resolution 1998/15 of 28 July 1998, entitled "Mutual assistance and international cooperation in criminal matters".
8. Extract from Economic and Social Council resolution 1998/16 of 28 July 1998, entitled "Action against corruption".
9. *Financial Havens, Banking Secrecy and Money-Laundering*, double issue 34 and 35 of the *Crime Prevention and Criminal Justice Newsletter* (1998).

II. Council of Europe

1. Criminal Law Convention on Corruption (GMC (98) 41).
2. Agreement establishing the Multidisciplinary Group on Corruption.

III. European Community

Convention (drawn up on the basis of article K3 of the Treaty on European Union) on the fight against corruption involving officials of the European Communities or officials of the member States of the European Union (*Official Journal of the European Communities* of 25 June 1997).

IV. Organization of American States

Inter-American Convention against Corruption (1996).

V. Organisation for Economic Cooperation and Development

Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (21 November 1997).

VI. Group of Seven

Extract from the communiqué of the Group of Seven Finance Ministers dated 9 May 1998.